

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

RECEIVED
JUN 1 1996
FCC - L RDC

In the Matter of)
)
Federal-State Joint Board)
Universal Service)
)

CC Docket No. 96-45

To the Joint Board:

~~DOCKET FILE COPY ORIGINAL~~

JOINT COMMENTS OF
THE URBAN LIBRARIES COUNCIL AND THE CENTER FOR TECHNOLOGY IN
THE PUBLIC LIBRARY AT THE SEATTLE PUBLIC LIBRARY

OF COUNSEL: Leslie A. Harris, Esq.
5824 Chevy Chase Parkway, N. W.
Washington, D. C. 20015
Phone#: (202) 537-1621
Fax#: (202) 362-5722
e-mail: leslieh96@aol.com

Eleanor Jo Rodger, President
Urban Libraries Council
1603 Orrington Avenue, Suite 1080
Evanston, IL 60201-5000
Phone#: (847) 866-9999
Fax#: (847) 866-9989
e-mail: ejr@tpl.glenview.lib.il.us

Willem Scholten, Director
Center for Technology in the Public
Library at the Seattle Public Library
1000 Fourth Avenue
Seattle, WA 98104-1193
Phone#: (206) 386-4180
Fax#: (206) 386-4119
e-mail: willem@spl.org

004

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

REC-
JUL 11 1996
FCC
L 600

In the Matter of)
)
Federal-State Joint Board)
Universal Service)
)

CC Docket No. 96-45

To the Joint Board:

Introduction

The Urban Libraries Council, an association of 116 large public library systems which serve over half the population of the United States, and the Center for Technology in the Public Library at the Seattle Public Library, a research and development organization dedicated to the application of technology to improve equity of access to information and learning resources for all, unite in submitting the following comments in response to the questions posed by the Joint Board in its Public Notice of July 3, 1996. The Urban Libraries Council previously was a signatory to the reply comments submitted by the American Library Association in response to the Notice of Proposed Rulemaking and Order Establishing the Joint Board. The questions addressed in the following comments are those of particular significance to urban libraries.

We strongly urge the adoption of a standard of service for schools and libraries that will provide full benefit of advanced telecommunications at the most affordable price, particularly for those serving economically disadvantaged areas.

Summary

The Commission Joint Board must reject proposals to direct discounts to states in the form of block grants. Such an approach is contrary to the statute's mandate to provide universal service to all schools and libraries upon a "bona fide request." Furthermore, a block grant program will vest too much discretion in state bureaucracies, create burdensome and costly application requirements for schools and libraries and result in a disparate distribution of benefits.

Furthermore, additional discounts should be provided to economically disadvantaged communities, particularly those in urban areas where household access to technology is sparse, populations are dense and institutional infrastructures are old and inadequate. In addition to Sec. 254, Joint Petitioners urge that Congress' addition of nondiscrimination language to Sec. 151 provides additional support to our view that further discounts should be available to economically disadvantaged urban areas where many minority populations live.

Allocation of additional consideration for public libraries serving economically disadvantaged persons should be determined and distributed at the system administration level, not at the building level as has often been done in school based programs.

Finally, since no nationwide models exist to determine the degree to which a library is disadvantaged, the Commission should determine such a formula, taking into account

factors which affect affordability such as the availability of local resources, the costs of providing telecommunications services, and the numbers of economically disadvantaged residents in the library's service area. A sliding scale approach should be used in allocating any additional considerations given to libraries located in economically disadvantaged areas.

Question 12: Should discounts be directed to the states in the form of block grants?

Answer: The Commission has asked whether discounts should be directed to the states in the form of block grants. It is the emphatic view of the joint commenters that they should not. Indeed, nothing in the plain words of the statute or its legislative history would permit such an approach.

Section 254(b) establishes a clear obligation to provide "universal service" to schools and libraries. "Universal" does not mean a select few; it means inter alia, "comprehensive", "unlimited", "unrestricted", "entire", and "all embracing."¹ By its very terms, a block grant scheme is not "all embracing." It does not anticipate providing discounted services to *all* schools and libraries "upon a bona fide request." Rather it presumes a finite amount of funds to be distributed from the universal service fund, first to the states and then to some, but not all, qualified applicants.

Further, a block grant approach would authorize each state to pick and choose among applications for discounted service and then give the money directly to the eligible

¹ See, Webster's New World Thesaurus, (World Publishing Company) 1971, p 633.

entities. Nowhere in the Act is such an approach sanctioned. Section 254(h)(1)(B) unambiguously provides that a telecommunications carrier providing discounted service to schools and libraries be directly reimbursed, either by obtaining an “offset to its obligations to contribute to the mechanism to preserve and advance universal service...”(B)(i), or by “receiv(ing) reimbursement utilizing support mechanisms to preserve and advance universal service.”(b)(ii). A block grant program which would disburse funds directly from a state agency to selected eligible entities would be directly contrary to the statute’s plain language.

In addition, the Act envisions a simple scheme where discounted services are made available to eligible entities *upon request*. Nowhere does it sanction a broad delegation of authority to a state bureaucracy to review applications, apply criteria and select among recipients. Indeed, it is clear that the sponsors of the Snowe, Rockefeller, Exon, Kerrey amendment well understood that the promise of universal service for schools and libraries could only be realized through adoption of a straightforward national policy that would limit state discretion and avoid disparate treatment. As the provision’s principal sponsor Sen. Snowe bluntly put it, “Universal service happens to be a national priority. That is what this issue is all about. States are involved in the sense that there is a joint board in the legislation that will help determine rates for the communities under the universal service provision. But this happens to be a national priority, a national issue and it is too important to just leave to the states on an ad hoc basis and say whatever happens, happens.” S7983 Cong. Record (June 8, 1995). Yet, if the Commission approves a block grant approach, each state will be free to interpret federal criteria as it wishes and the promise of universality will be replaced with “whatever happens, happens.”

Finally, a block grant program would erect a cumbersome state application process which will force schools and libraries to expend already scarce resources to prepare applications and shepherd them through the state bureaucracy. For economically disadvantaged schools and libraries – particularly those in distressed urban areas – the prospect of both marshaling the resources to prepare a comprehensive plan and then competing against their well funded and politically powerful suburban counterparts will be daunting, to say the least. Nowhere in the letter or spirit of the Act is there *any* authority for transforming a simple and elegant federal promise of universal service into a state level political free for all over a less than generous slice of pie. The joint commenters have no doubt that if the Commission were to approve such an approach, those institutions in the most need of discounts – particularly those in urban areas – will be left with little more than the crumbs. Indeed, “...experience indicates that cities are among the clearest losers under block grants.” (“Block Grants: An Overview of Where We’ve Been and Where We’re Going” by Carole Cox, D.S.W., The Catholic University of America for the National Academy on Aging.)

To be sure, the Act clearly envisions an important role for the states, not only to set intrastate universal service policies but to fashion them to meet the needs of its diverse communities. States may go further than the statute to ensure the promise of universal service, but they are not empowered to undermine the federal scheme. Block grants are an open invitation to do so.

For these reasons, the joint commenters strongly urge that a block grant approach be rejected.

Question 19: Should an additional discount be given to schools and libraries located in rural, insular, high cost, and economically disadvantaged areas? What percentage of telecommunications services used by schools and libraries in such areas are or require toll calls?

Answer: The Commission has asked whether additional discounts ought to be provided in rural, high cost, and economically disadvantaged areas. Because affordability is the touchstone of the Snowe, Rockefeller, Exon, Kerrey provision, the joint commenters believe that such discounts are specifically anticipated by the statute. Indeed, the statute specifically directs the Commission to provide whatever discount is “appropriate” and “necessary” “to provide affordable access...”.

Accordingly, affordability under the statute cannot mean a single discount rate to be applied to a variety of settings and circumstances. Rather, it is a flexible concept which must take into account differences in community resources and circumstances.

Much has been said in Congress and before the Commission about the special problems of providing telecommunications services in rural areas. To be sure, the lack of ready access to a wire and the cost of long distance charges present formidable obstacles to service in such communities. Yet, far less attention has been paid to the difficulty of providing telecommunications services in disadvantaged urban areas where access to technology is sparse, populations are dense, and institutional infrastructures are often old and inadequate.

According to Newsweek's report on U.S. Census Bureau statistics (October 18, 1993, p. 44) almost three quarters of all Americans living in poverty in 1992 (36,881,000) lived in urban areas (27, 370,000). Almost 7 million children under the age of 18 live in

poverty in America's cities (1990 Census of Population: Social and Economic Characteristics, U.S. Census Bureau). Whatever advantages increased competition spurred by the 1996 Telecommunications Act may bring to rate structures in urban areas, it will not be enough by itself to bootstrap the disadvantaged urban schools and libraries serving those children into the twenty first century.

Moreover, the poverty rates are much higher for black families (31%) and families of Hispanic origin (26%) than they are for white families (7%) or for the general population (14%). (1990 Census of Population: Social and Economic Characteristics, U.S. Census Bureau.) According to Housing and Urban Development Secretary Henry Cisneros, in the nation's 94 largest cities, the percent of minorities rose from 24% in 1970 to 40% in 1990. (Detroit Journal Editorial, January 21, 1996.) Whether they live in rural or urban areas, black and Hispanic-origin households are far less likely to own computers than non-Hispanic white households. ("Falling Through the Net: A Survey of the "Have Not" in Rural and Urban America," U.S. Department of Commerce, July 1995).

Percent of Households With A Computer by Race/Origin

	Rural	Urban	Central City
White-non-Hispanic	25%	30%	29%
Black-non-Hispanic	6%	12%	10%
Hispanic	12%	13%	10%

The Commission must understand that the tax base and thus the ability to provide telecommunications services in the nation's urban areas is shrinking. At present libraries represent a mere one to two percent of those shrinking budgets. Moreover, because of the high number of economically disadvantaged families in such areas, demands for all government services, including libraries, are particularly high.

Almost 4 million (3,813,972) poor families in America live in urban areas. For most of these households, if they are to have any access to the full range of networked resources, their only option is the public library. Indeed, in many urban areas where access to information services in public schools is rare or nonexistent, the public library has become the sole available community onramp for school children as well as for adults. Recent public library user studies in Atlanta and Philadelphia indicate high use of the public library for support of formal education. In Philadelphia 32% of all library users reported coming to the library for resources to support formal education courses. The Atlanta-Fulton County Public Library reported 34% of its use was in support of formal education and an additional 21% of its users indicated they had brought children to the library for homework resources. (Both studies were done for the public library systems by Dr. George D'Elia in collaboration with the University of Minnesota Center for Survey Research and are available from the library systems.)

While urban libraries have begun to offer online services to the public - indeed approximately 90% offer at least some access to the Internet and other networked resources according to a recent study by the National Commission on Libraries and Information Science - the dual pressures of limited local revenues and continuing demand for traditional library services have restrained their ability to respond to the growing demand. In fact, the larger the population served by a library system, the worse the ratio of computer workstations to population. For example, in urban areas of 1,000,000 or more, there is an average of only one workstation with graphical interface available in the public library for every 84,422 people. By simple calculation, assuming the library is open 69 hours a week, 50 weeks a year, with an average computer use time of 30 minutes per person, it would take a wait of 12 years and 3 months for the last person in line to get his/her turn. By contrast, for library systems serving populations of

between 10,000 and 25,000 people, the ratio is one graphic user interface workstation for every 18,007 people, resulting in theoretical lines which take only 2.7 years to work through. Demand for access to computer workstations is so high in urban areas that even at the brand new Science, Industry, and Business Library, a part of the New York Public Library lines of over one hundred people at the door when the library opens are customary. Within a few minutes most available time for the day is booked on all available computers.

Libraries in high density and low income urban areas not only face high demand, they face high overall service costs. Library branches in the middle of poor neighborhoods, for example, are most often in areas where the telecommunications infrastructure is very old and unsophisticated. The high bandwidth pipes necessary to support multimedia connectivity simply have not been laid, and plans to do so by the industry are unclear². For example in Minnesota, US West has told the Public Utilities Commission that they will not offer prioritized ISDN services to people who aren't served by ISDN-capable switching equipment. This means that if you are located in the right part of town your cost for ISDN would continue to be roughly \$80/month. If you are located in the wrong part of town your cost for ISDN would be around \$300/month. The non ISDN-capable equipment location happens to be in the poorer and less economically viable neighborhoods³. Similar situations occur when libraries and schools require larger bandwidth such as Frame-Relay circuits at fractional T1 or higher speeds. Although the phone company may ultimately offer it, in many cases the RBOC's deploy a stall

² See, J. Halpert and A. Campbell, "Electronic Redlining: Discrimination on the Information Superhighway" in New Challenges: The Civil Rights Record of the Clinton Administration Midterm: Citizen's Commission on Civil Rights, 1995.

³ See <http://haven.com/isdnrant.html> and "Carriers Put the Brakes on ISDN: Higher Prices to Discourage Uptake." *Communication Week* June 24, 1996.

technique, or make access charges for the service exponentially higher than in more economically viable sections of the inner city. Access to the higher bandwidth infrastructure is particularly important for schools and libraries in such neighborhoods, because it serves a much larger portion of the population, for whom the school and the library are the only places to get some access to the Information Super Highway. This drives up the demand and the need for larger groupings of access workstations and therefore the aggregated need for bandwidth is much higher. Higher density demands also requires libraries to offer more hours of operation, as well as greater staff support. For the urban library, then, additional discounts not only increase the availability of information services for those in the most need, they also permit the redirection of resources freed up by the discount to be put toward more equipment, staff support, and other resources required to provide networked services.

The joint commenters urge the Commission - whatever means it employs to set a benchmark discount rate under Section 254 - to take into account the unique and daunting obstacles that affect "affordability" in economically disadvantaged urban areas and to establish a formula for providing significant additional discounts to economically disadvantaged urban areas. Those additional discounts, moreover, must apply to the entire range of services available in the region. Joint commenters set out their suggestions for such a formula in response to Question 21 below.

Finally, joint commenters believe that Congress' addition of non-discrimination language to Section 151 provides additional support for our view that further discounts must be provided to economically disadvantaged areas. The new anti-discrimination language evinces a clear Congressional intent to promote deployment of telecommunications services to *all*, without regard to differences in race, religion, national origin or sex. That non-discrimination language must be read into every other

provision of the 1996 Telecommunications Act including the universal service requirements of section 254.

Question 20: Should the Commission use some existing model to determine the degree to which a school is disadvantaged (e.g., Title I or the national school lunch program)? Which one? What, if any, modifications should the Commission make to that model?

Answer: While models exist for determining the eligibility of various school units to participate in federal poverty relief programs, no such models exist for public library participation. The joint commenters call this fact to the attention of the Commission and offer the following comments and recommendation.

We strongly urge that public library administrative units as a whole be considered for determinations of eligibility for additional discounts made available to address great needs in rural, insular, high cost, and economically disadvantaged areas.

Public libraries in the United States vary from administrative units serving rural populations of as few as 1000 individuals with one small building such as Deer Isle, Maine, to units serving over 3,000,000 with 84 branches such as Los Angeles County. Whether small libraries are administered separately, or have joined together to form larger systems is a function of state law and local politics. The administrative unit is where financial planning and accountability rest. It is where eligibility should be determined and discounts applied.

We are aware that some patterns of eligibility, especially for schools, have, in the past been building specific. This should not be done for public library eligibility, particularly

in determining a formula for discounts to ensure affordability of telecommunication services.

In major metropolitan areas, many people use more than one public library branch depending on convenience (close to home works for the kids, close to work for parents), assumptions about the availability of services (main library for high school home work support or business information, neighborhood branch for leisure reading), and habit. Unlike schools, which have rigidly defined attendance areas, public libraries serve all residents within their service area which may be a city, a city-county territory, or several cities or counties together. Again, the service areas and their various permutations are determined by what state law allows and local politics can accomplish. Discounts should be applied to the library system as a whole to ensure that benefits are appropriately available.

Resources in public libraries are traditionally acquired centrally and distributed and redistributed according to service priorities and community needs. Books are ordered centrally; staff are hired centrally; distribution and deployment are done to meet varying community needs. This is true, only more so, in relation to access to networked information resources. Telecommunication costs are incurred by the library system as a whole and deployment of access points varies based on local decisions about wide area networks, licensing, and needs of residents of various sections of the cities. Additional discount considerations should be applied to systems in their entirety to reduce administrative burdens and ensure effective deployment of resources.

Therefore we urge that determination of eligibility for additional considerations as service providers for economically disadvantaged populations be made at the system

administration level for public libraries. Additional criteria are suggested in the answer to Question 21

Question 21: Should the Commission use a sliding scale approach (i.e., along a continuum of need) or a step approach (e.g., the Lifeline assistance program or the national school lunch program) to allocate any additional consideration given to schools and libraries located in rural, insular, high-cost, and economically disadvantaged areas?

Answer: The joint commenters strongly believe that a sliding scale approach to allocating any additional consideration given to eligible schools and libraries offers the best opportunity for meeting the goals of the Act

As we previously noted in response to Question 19, there are many factors which together determine affordability of access to networked information resources; the tax base of the local jurisdiction, amount and degree of need, and the cost of providing the services. A sliding scale approach to the allocation of additional discounts will most accurately take into account the variations in the burdens for school or library systems in providing access to services appropriate for their communities. For example, a city such as Newark, New Jersey where 26% of the population is below the poverty level has a greater need of and less ability to pay for access to networked information than Columbus, Ohio where the poverty rate is 17%.

In addition a sliding scale allocation system is more economically efficient than a step approach because those who are able to afford more will be expected to pay more. This approach assures a better use of the universal service fund than simply awarding all

eligible entities the same rate, without regard to individual circumstances which affect affordability.

While the joint commenters are not now advocating a particular formula for determining the sliding scale as it pertains to discounts for public libraries, we urge the Commission to take into account the following factors in establishing such a formula:

- ◆ Available per capita support of the local public library as reported in the most recent statistical report on file with the appropriate state library agency;
- ◆ Number of households below the federal poverty level within the library's service area;
- ◆ Percentage of households below the federal poverty level within the library's service area; and
- ◆ One time costs of providing telecommunications infrastructure to urban areas previously unserved by high bandwidth connectivity.

Therefore, the joint commenters urge that the Commission use a sliding scale approach that takes into account the many factors affecting "affordability" in allocating any additional discount given to libraries in economically disadvantaged areas.

Conclusion

In conclusion we note that public libraries are established, efficient community institutions vital contributors to the goal of providing universal access to the information highway for all who live in the United States. The joint commenters urge the Commission to provide appropriate discounts to *all* libraries as well as additional considerations to public libraries serving urban areas dense with economically disadvantaged families to ensure all Americans are able to benefit from new information technology and educational resources.

Service List: The Honorable Reed E. Hundt, Chairman
Federal Communications Commission
1919 M Street, N. W. - Room 814
Washington, D. C. 20554

The Honorable Rachelle B. Chong, Commissioner
Federal Communications Commission
1919 M Street, N. W. - Room 844
Washington, D. C. 20554

The Honorable Susan Ness, Commissioner
Federal Communications Commission
1919 M Street, N. W. - Room 832
Washington, D. C. 20554

The Honorable Julia Johnson, Commissioner
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

The Honorable Kenneth McClure, Vice Chairman
Missouri Public Service Commission
301 W. High Street, Suite 530
Jefferson City, MO 65102

The Honorable Sharon L. Nelson, Chairman
Washington Utilities and Transportation Commission
P.O. Box 47750
Olympia, WA 98504-7250

The Honorable Laska Schoenfelder, Commissioner
South Dakota Public Utilities Commission
500 E. Capitol Avenue
Pierre, SD 57501

Martha S. Hegerty
Public Counsel for the State of Missouri
P.O. Box 7800
Harry S. Truman Building, Room 250
Jefferson City, MO 65102

Deborah Dupont, Federal Staff Chair
Federal Communications Commission
2000 L Street, N. W. - Suite 257
Washington, D. C. 20036

Paul E. Pederson, State Staff Chair
Missouri Public Service Commission
P.O. Box 360
Truman State Office Building
Jefferson City, MO 65102

Eileen Benner
Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720-0074

Charles Boll
South Dakota Public Utilities Commission
State Capital 500 E. Capital Avenue
Pierre, SD 57501-5070

Lorraine Keyon
Alaska Public Utilities Commission
1016 West Sixth Avenue
Anchorage, AK 99501

Debra Kriete
Pennsylvania Public Utilities Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Mark Long
Florida Public Service Commission
2540 Shumard Oak Blvd.
Gerald Gunter Building
Tallahassee, FL 32399-0850

Samuel Loudenslager
Arkansas Public Service Commission
P.O. Box 400
Little Rock, AR 72203-0400

Sandra Makeeff
Iowa Utilities Board
Lucas State Office Building
Des Moines, IA 50319

Philip F. McTalland
Pennsylvania Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120

Michael A. McRae
D. C. Office of the People's Counsel
1133 15th Street, N. W. - Suite 500
Washington, D. C. 20005

Terry Monroe
New York Public Service Commission
Three Empire Plaza
Albany, NY 12223

Mark Nadel

Federal Communications Commission
1919 M Street, N. W. - Room 542
Washington, D. C. 20554

Lee Palagyi
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Jeanine Poltroieri
Federal Communications Commission
2000 L Street, N. W. - Suite 257
Washington, D. C. 20036

James Bradford Ramsay
National Association of Regulatory Utility Commissioners
1201 Constitution Avenue, N. W.
Washington, D. C. 20036

Jonathan Ree
Federal Communications Commission
2000 L Street, N. W. - Suite 257
Washington, D. C. 20036

Brian Robert
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Gary Seigel
Federal Communications Commission
2000 L Street, N. W. - Suite 812
Washington, D. C. 20036

Pamela Szyrniczak
Federal Communications Commission
2000 L Street, N. W. - Suite 257
Washington, D. C. 20036

Whiting Thayer
Federal Communications Commission
2000 L Street, N. W. - Suite 812
Washington, D. C. 20036

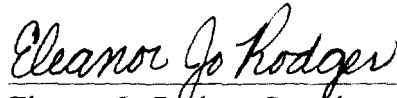
Alex Bellinante
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

Larry Povich
Federal Communications Commission
1919 M Street, N. W.

Washington, D C. 20554

Certificate of Service

I, Eleanor Jo Rodger, certify that on this 31st day of July, 1996, I caused copies of the foregoing "Joint Comments" to be served by mail, first class postage or United Parcel Service prepaid on the parties listed in the Notice of Proposed Rulemaking. In the Matter of Federal State Joint Board on Universal Service, FCC No. 96-45, I further certify that I submitted a diskette containing the "Joint Comments" as required by that Notice.

A handwritten signature in cursive script, reading "Eleanor Jo Rodger", is written over a horizontal line.

Eleanor Jo Rodger, President
Urban Libraries Council